

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TERRI PECHNER-JAMES and)	
SONIA FERNANDEZ,)	
)	
Plaintiffs,)	
)	Civil Action No.03cv12499-MLW
v.)	
)	
CITY OF REVERE et. al.)	
)	
Defendants.)	

REPORT AND RECOMMENDATION ON SUMMARY JUDGMENT

SOROKIN, M.J.

October 12, 2005

Defendant Mayor of the City of Revere Thomas Ambrosino and Defendant Revere Police Chief Terrance Reardon each move for Summary Judgment (docket #s 29 and 37) for two reasons. First, as to personal liability in the defendant's individual capacity, each defendant argues that the complaint contains no allegations that either of them committed any wrongs or even held their respective positions during the time period of the allegations in the complaint. As to this argument, at the hearing, plaintiffs' counsel agreed that the complaint contained no such allegations and further agreed that the complaint made no claims against these two defendants in their individual capacities. Accordingly, I recommend that the Court allow each motion for summary judgment as to these two defendants in their individual capacities.

Second, each defendant argues that his presence in the lawsuit in his official capacity is unnecessary where, as here, the City of Revere is a defendant and the complaint seeks monetary relief, only. Defense counsel further represents that, if plaintiffs prevail, whatever relief they can obtain from these defendants in their official capacity they can likewise obtain from the

defendant City of Revere. Plaintiffs' counsel agrees with defense counsel's assessment, though nonetheless he would like these two official capacity defendants to remain in the case. In an effort to narrow this case, I recommend that the Court allow each motion for summary judgment as to these two defendants in their official capacities.

For the foregoing reasons, I recommend that the Court ALLOW Defendant Ambrosino's Motion for Summary Judgment (docket # 37) and Defendant Reardon's Motion for Summary Judgment (docket #29).¹

/s/ LEO T. SOROKIN
Leo T. Sorokin
United States Magistrate Judge

¹ Any party objecting to the proposed findings and recommendations of this Report and Recommendation must file a written objection thereto within 10 days of receipt of this Report and Recommendation. The written objections must identify with specificity the portion of the proposed findings, recommendations, or report to which objection is made, and the basis for such objections. See Fed. R. Civ. P. 72. The parties are further advised that the United States Court of Appeals for the First Circuit has repeatedly indicated that failure to comply with this Rule shall preclude further appellate review.